

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ERIC DALLAS

Plaintiff

v.

C-1-09-10

OFFICER MICHAEL FORREST,
et al.,

Defendants

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 27), defendants' objections (doc. no. 28), plaintiff's response (doc. no. 29) and defendants' reply (doc. no. 30). The Magistrate Judge concluded that general issues of material fact exist thereby precluding summary judgment. The Magistrate Judge therefore recommended that defendants' Motion for Summary Judgment (doc. no. 12) be denied.

Defendant objects to the Judge's Report and Recommendation on the grounds that his findings are contrary to law.

Defendant objects to the Magistrate Judge's determination that there are genuine issues of material fact for trial with respect to (1) whether Officer Forrest had reasonable suspicion to stop plaintiff's brother in February, 2008; (2) whether plaintiff was "arrested" during the February encounter; (3) whether there was probable cause for any "arrest;" and 4) whether the circumstances made it reasonable for Forrest to take the precautions of handcuffing and briefly detaining plaintiff in the cruiser.

Defendant objects to the Magistrate Judge's determination that there are genuine issues of material fact for trial with respect to 1) the March, 2008 incident and whether Officer Forrest had probable cause to charge plaintiff with aggravated menacing and/or inducing panic and 2) there are genuine issues of material fact for trial as to whether Officer Forrest filed the charges in retaliation for the plaintiff's filing a formal Complaint against him.

Finally, defendant objects to the Magistrate Judge's determination that there are genuine issues of material fact for trial with respect to whether Officer Forrest is entitled to qualified immunity.

In plaintiff's response to defendant's objections, plaintiff argues that defendant merely rehashed all the arguments that were initially made to the Magistrate and that no new cases were cited, and no new or different arguments were made. The conclusion of the Magistrate Judge, therefore, that there are genuine issues of material fact for trial, is correct.

III.

CONCLUSION

Upon a *de novo* review of the record, especially in light of defendants' objections, the Court finds that defendants' objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Judge.

Accordingly, the Court hereby ADOPTS the Report and Recommendation of the United States Magistrate Judge (doc. no. 27). Defendants' Motion for Summary Judgment (doc. no. 12) is DENIED.

This case shall proceed to trial as previously scheduled by the Court.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court